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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,787	11/19/2003	Jesse D. Crum	WK/2003-14/US	6153

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EXAMINER

THOMPSON, CAMIE S

ART UNIT	PAPER NUMBER
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1774

DATE MAILED: 11/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/716,787

Applicant(s)

CRUM, JESSE D.

Examiner

Camie S. Thompson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Amendment filed September 6, 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's amendment and accompanying remarks filed September 6, 2005 have been acknowledged.
2. Examiner acknowledges amended claims 1-17, 24 and 29.
3. The rejection of claims 1-16 under 35 U.S.C. 112, second paragraph is withdrawn due to applicant's amended claims 1, 3 and 10-11.
4. The rejection of claims 1-20 and 22-23 under 35 U.S.C. 102(b) as being anticipated by Young et al., U.S. Patent Number 4,079,025 is withdrawn due to applicant's argument.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-5, 10-11, 13-15, 17, and 19-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Spector, U.S. Patent Number 5,951,057.

Spector discloses a greeting card that has a printed message that includes an image. The reference also discloses that the greeting card has a detachable decal section, which has an image of a character printed thereon in a transferable ink (see column 1, lines 64-68). Additionally, the

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reference discloses that the decal section is formed of paper stock, which is coated with a water-soluble adhesive layer that can be either a water-based acrylic or a starch (column 4, lines 9-14).

1. Claims 24-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Fujita et al., U.S. Patent Number 5,217,791.

The Fujita reference discloses a printed film sheet that has an image printed on a transparent film sheet. Additionally, the reference discloses that the film sheet is provided with a coating composition (see column 2, lines 10-22). Column 5, lines 24-62 of the Fujita reference discloses that the adhesives contained in the coating composition can include esterified starches. Column 7, lines 31-41 of the reference discloses that the printed film sheet has sufficient gloss as printed matter and offers a satisfactory attraction as an advertisement. Claims 27 and 31 are product-by-process claims. Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior art product was made by a different process. See MPEP 2113. The manner in which the substrate (marketing collateral) is prepared does not make the printed film sheet of the Fujita reference different from the printed sheet of the instant invention.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 6-9, 12, 16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spector, U.S. Patent Number 5,951,057 in view of Young et al., U.S. Patent Number 4,079,025.

Spector discloses a greeting card that has a printed message that includes an image. The reference also discloses that the greeting card has a detachable decal section, which has an image of a character printed thereon in a transferable ink (see column 1, lines 64-68). Additionally, the reference discloses that the decal section is formed of paper stock, which is coated with a water-soluble adhesive layer that can be either a water-based acrylic or a starch (column 4, lines 9-14). The Spector reference does not disclose the type of starch present in the composition. Young discloses the use of starch compositions as coatings onto decorative articles and substrates (see column 19, lines 1-10). Additionally, the Young reference discloses that the starch compositions may be formulated with a broad range of natural and synthetic polymeric film forming additives such as rosin, shellac and carnauba wax (all of which can be varnishes) (see column 17, line 48-column 18, line 17). Column 4, lines 55-68 of the Young reference discloses that the starch portion of the composition can be derived from tapioca, corn, high amylase starches, maize, wheat, rice sorghum and amylase fractions. The Young reference also discloses that the starch content to coating content has a ration of 5:1 to 9:1 (see column 12, lines 36-54). The Spector reference provides for a starch in the coating. Starch is generic and encompasses the species wheat, rice, tapioca, high amylase, maize and sorghum. Therefore, it would have been obvious

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to one of ordinary skill in the art to use wheat, rice, tapioca, high amylase, maize or sorghum in the starch composition of the Spector reference because each of the different types of starches is encompassed by the generic starch material.

Response to Arguments

9. Applicant's arguments filed September 6, 2005 have been fully considered but they are not persuasive. Applicant argues that the Spector reference does not disclose the use of a starch component to control odor. Spector discloses a greeting card that comprises a decal. The decal of Spector is formed from paper stock, which is coated with a water-soluble adhesive layer (varnish) that can comprise starch. The decal of the Spector reference reads on the printed image of the present application with a substrate that has a first coating that comprises starch. The use of the starch in the coating is not given any patentable weight. Applicant argues that the adhesive of Spector does not provide textural or aesthetic properties. Applicant claims that the first coating can be an adhesive. The coating of the Spector reference is an adhesive. The use of the adhesive in the composition is not given any patentable weight. Applicant argues that the claims recite a starch coating applied over the printing on the substrate. The decal of the Spector reference has an image, which is coated, as does applicant's substrate with printed image. Applicant argues the Fujita reference does not disclose the use of the starch to create surface discontinuities. In column 7 of the Fujita reference, it is disclosed that the printed film sheet has sufficient gloss and protects the printed image, which would have textural characteristics, as does

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applicant's glossy printed image. Additionally, the gloss over the printed image in the Fujita reference would create surface discontinuities.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Camie S. Thompson whose telephone number is (571) 272-1530. The examiner can normally be reached on Monday through Friday from 7:30 am to 4:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena L. Dye, can be reached at (571) 272-3186. The fax phone number for the Group is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



RENA DYE

SUPERVISORY PATENT EXAMINER

A.U. 1774 11/18/05